

February 8th, 2022

To: Senate Committee On Judiciary and Ballot Measure 110 Implementation

RE: Oregon Senate Bill 1568 - Early Compassionate Medical Release

Chair Prozanski, Vice Chair Thatcher, and members of the committee,

I am Dr. Theodora Tsongas, an environmental health scientist specializing in epidemiology. I have spent most of my career working in public health at federal and state public health agencies, including the Oregon Health Division (now the Oregon Health Authority). I am a member of Oregon Physicians for Social Responsibility and the American Public Health Association.

I am writing in support of Senate Bill 1568. I initially became concerned with compassionate release when I learned about the plight of persons in custody during the Covid-19 pandemic, with the impossible situation within prisons to avoid infection due to the constraints on space and inability to take basic sanitary measures. Basic public health measures remain very difficult in the prison setting. Concerns about impacts on surrounding communities, the families of adults in custody and prison staff and the general population have also been amplified by this experience. SB1568 creates a compassionate medical release process that can more effectively address public health concerns.

The need for an accessible and robust compassionate release process became apparent as we learned about the sparse mechanisms available to address health concerns among adults in custody. The eligibility criteria for compassionate release in the past were too narrow, and the process was largely inaccessible and when accessed took months to review a case. Requests for compassionate release for medical conditions were reviewed by non-health experts.

What is needed is an independent review with a medical and public health lens rather than just looking at the nature of the offense. The responsibility for review of medical conditions should go to medical experts. Specific time constraints should be built into the process to avoid delays that can seriously exacerbate the already poor health of the person applying while they wait for the process to be completed. In some cases, people have died waiting for their application to be processed. How many of these persons were incarcerated for nonviolent crimes?

SB1568 creates a process that is accessible for incarcerated persons to apply for compassionate release and is inclusive enough to address health concerns that cannot be adequately cared for within the prison setting. The compassionate release process will be more effective in addressing

those concerns with medical and public health expertise through the establishment of a Medical Release Advisory Committee composed of medical professionals.

It is important to be able to evaluate the effectiveness of the compassionate release process to ensure that it is achieving its objectives. To address this need, SB1568 tasks the Medical Release Advisory Committee, in collaboration with the Board of Parole and Post-Prison Supervision, to track data on the number of applicants, demographics of applicants, and the disposition of each applicants' case and the reasons for each disposition. The Board then prepares and presents a data report annually concerning early medical release to the Legislative committees related to judiciary. The data and reports permit the evaluation of the process, so that changes and improvements can be made if needed.

Mass incarceration in our country constitutes a public health crisis because of the difficulties in providing equitable care for persons in custody. With the aging of the incarcerated population, particularly with the imposition of longer sentences in the 1980s and 1990s the number of inmates 55 and older in the US has increased disproportionately to the increase in the overall prison population. Furthermore, chronic health conditions tend to be at a more advanced stage among the incarcerated compared with the age-adjusted general public, possibly as a result of the conditions imposed by incarceration. Not only is more care for chronic health conditions needed, but the advancing stage of illness may interfere with a person's ability to function within the prison environment, leading their health to deteriorate further.

Further, we know that the rates of recidivism among the ill and elderly after release from custody are very low. U.S. recidivism rates decrease as adults in custody get older – dropping to 5% for those age 50 to 64 and reaching less than 1% by age 65.

The difficulties of providing adequate care for aging and ill adults in custody and those suffering from limiting disabilities or health conditions raise the question of the justice and need for continuing incarceration. It is our responsibility as a society to act fairly: what is the point of keeping a person in prison who is unable to function and is not a threat to society? In what sense is this rehabilitation?

SB1568 will go a long way toward addressing the injustices within our prison system. Please vote yes. Thank you for your very difficult work and for the opportunity to comment on this important matter.

Sincerely,
Theodora Tsongas